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Personality and Perceived Justice as Predictors of the Decision to Litigate

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ABSTRACT - Employers may face costly and time-consuming litigation as a result of hiring and promotional procedures and decisions. This study examined the situational factors (perceived justice) and personality factors (extroversion, agreeableness and neuroticism as well as negative and positive affectivity) that are associated with applicant's intent to litigate. Participants read high/low justice scenarios and rated their intent to litigate. Results indicated that intent to litigate is affected by perceived justice and also positive affectivity (when race is controlled). Organizations should monitor their hiring and promotional practices to ensure that applicants perceive them as fair. African American applicants with low positive affectivity are more likely to litigate.

Keywords:

Perceived justice;
Applicant reactions;
Intent to litigate;
Hiring practices;
Personality traits;
Positive affectivity;
Organizational
fairness; Workplace
litigation

Introduction

In 2008, litigation cost organizations across the United States 102.2 million dollars in payouts to plaintiffs (U.S. Equal Employment Opportunity Commission, EEOC, 2009). This figure does not take into account the many other costs organizations incur when involved in a lawsuit. Employee litigation is not only costly, but also time-consuming. In addition, there are potential productivity losses if the litigating employee leaves the organization. The purpose of this paper is to examine some of the situational and dispositional factors that may lead an employee or applicant to decide to litigate. This paper will contribute to the limited research on the factors

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impacting whether an employee/applicant chooses to file a lawsuit based on the selection decision.

The Litigation Process

When employees perceive they have been harmed or mistreated, they may react in various ways up to and including litigation. Tucker (1993) listed several other ways that employees choose to express their frustration. Many employees use gossip as a way to gather support for their side, but others may actually confront the party responsible to try to work out a solution. Some employees may choose to resign from the organization, whereas others may take no action and tolerate the injustice. More extreme reactions may take the form of sabotage, theft, or violence. Another employee reaction is filing formal complaints or grievances. If an organization sees employees engaging in these types of behavior, litigation may be on the horizon.

There are different steps that an employee may go through before actually filing a lawsuit with the courts. An employee may file a grievance if the organization has an internal grievance process. If employees perceive the internal grievance procedures as fair, they are more likely to use the internal system to resolve issues instead of using the courts (Riggs-Fuller et al., 2000). A dispute results when a grievance is rejected or denied by the parties responsible (Miller & Sarat, 1980), and it is usually after this stage that the employee may get the courts involved.

There are many factors employees may consider when thinking about litigation (Bies & Tyler, 1993). When reacting to a negative employment outcome such as termination, demotion, denial of a raise or job, the employee considers his/her feelings about the job. People who are not satisfied with their jobs are more likely to file than those who are satisfied (Bies & Tyler, 1993). The employee also considers the probability of winning the case. If the employee thinks that there is a good chance that he/she will win, then the employee is more likely to consider litigation. People are motivated to take part in litigation for several reasons, including self-interest and justice (the consideration of the fairness of management decisions). Employees may file lawsuits not only to bring attention to an injustice, but also to experience personal gain (Bies & Tyler, 1993).

There are certain kinds of people who are more likely to file lawsuits. If an employee is committed to the organization, then he/she is less likely to consider litigation (Dalton & Todor, 1982). Blue collar workers are less likely to file lawsuits than white collar workers (Owen et al., 1989) possibly due to the anticipated legal costs. Private sector employees are more likely to file than public sector employees. Younger people are more likely to file suit against their company, which could be due to generational differences, or that with age, more realistic and less idealized expectations of the job (Allen & Keaveny, 1985). Also, people who are more active in the union file more frequently than those not active or not in unions (Owen et al., 1989). Thus, there are many differences between litigants and non-litigants. Thus, many differences have been found between employees who litigate and those who do not.

Selection Testing and Litigation

Although Equal Employment Opportunity (EEO) law covers all aspects of the employment relationship from recruitment through termination, and litigation can involve any aspect of the employment relationship, this study will focus on selection. Selection is a common area for litigation because of its zero-sum nature: some applicants are hired and others are not, and if one person is selected, it may mean that another is not. Litigation can result when applicants believe that a selection or promotion procedure is unfair.

Applicants begin the selection process with expectations regarding how they will be treated by the organization. Applicants who trust the organization, expect that they will be treated fairly throughout the selection process. Celani, Deutsch-Salamon, and Singh (2008) found that if a person enters the process with a high level of trust in the organization, then he/she is more likely to see the selection process as fair. However, if a person is expecting to be treated unfairly, then he/she is likely to perceive the selection process as unfair. Applicants' expectations about the selection process may be a key factor in shaping their reactions to the selection process (Bell et al., 2006).

During the selection process, there are several techniques that can be used to screen applicants. Certain types of selection devices and items within them, are likely to lead to litigation. For example, when applications ask about sensitive information (e.g., gender, race, national origin), applicants are more likely to litigate (Wallace et al., 2006). Structured interviews where the questions are standardized are less likely to lead to litigation (Williamson et al., 1997) and face-to-face interviews are far less likely to lead to litigation than phone or internet interviews (Bauer et al., 2004). Generally, selection procedures that are perceived as job-related are less likely to lead to litigation (Smither et al. 1993).

If the applicant is provided with information about what tests will be administered and what the tests will be used for, then the applicant is more likely to see the process and the individual tests as fair (Truxillo et al., 2002). Providing the applicant with information helps the applicant see that there is a purpose to the tests that are being used and the applicant is not wasting time by completing them.

Gilliland's model of applicant reactions to employment selection systems is based on the notion that the environment and an applicant's perceptions play into reactions to the selection process (Gilliland, 1993). This model provides beneficial advice to organizations about how to influence applicant reactions to the process. The organization can control the environment of the selection process by regulating who and how many applicants are testing at a time, who interviews or administers tests, and even the temperature of the room. The organization should take steps to help ensure that it is portrayed in a positive light in all communications with the applicants, for example, material on the website, phone calls from recruiters, and instructions regarding the testing situation. Gilliland's model suggests that the environment and applicants' perceptions of the organization affect reactions to the process. If applicant or employee reactions to the selection system are negative, litigation may be likely. In the next section, the relationship between intentions and behavior is discussed.

Intention to Behavior Linkage

The purpose of this study is to measure the intent to litigate based on personality and perceived justice. Since litigation behavior is fairly rare in any one organization, it is difficult to assess directly. Thus, it is important to establish that intent to litigate predicts litigation behavior. Therefore justification is needed to show that intentions are likely to lead to behavior. The Theory of Planned Behavior (Ajzen, 1985) will be discussed along with research supporting the intention and behavior link.

The Theory of Planned Behavior was developed by Fishbein and Ajzen (1975) and the basic idea is: attitudes, subjective norms, and perceived behavioral control lead to intention and intentions lead to behavior. Attitudes are defined as the favorable/unfavorable responses to a stimulus, object, or behavior (Breckler, 1984; Doll & Ajzen, 1992). Subjective norms are the social component of the model and allow for the person's perceptions of what social groups would think of the behavior in question (Chandon et al., 2005; Doll & Ajzen 1992; Vallerand et al., 1992).

Perceived behavioral control can be defined as the perceived ease or difficulty in performing the behavior. In other words, the person takes into account the likelihood of successfully performing the behavior in question (Pinder, 2008). Perceived behavioral control operates on a higher level because it reflects past experiences and anticipates obstacles (Doll & Ajzen, 1992). Taking these three influences together, the person forms intent either to act or not to act. It is the intent then that leads to the actual behavior. For example, when considering litigation, if an applicant has a strong attitude about the organization and how great it is, and also sees his/her peer group being very supportive of the organization and what it stands for, and anticipates that litigation would be difficult and time consuming, then the person is less likely to develop the intent to take legal action against the organization.

The Theory of Planned Behavior allows for the attitudinal component to influence the subjective norm and the perceived behavioral control components. The subjective norms also influence perceived behavioral control, and all three components combine to influence the development of intent (Doll & Ajzen, 1992). The intent/behavior link of the Theory of Planned Behavior received support. Intentions accounted for the largest percentage of the variance when predicting behavior (McGuinness et al., 1977). Ajzen et al. (2004) showed there was a strong correlation, $r(158) = .61, p < .001$, between intention and actual behavior. Therefore, measuring intent can be a good alternative to measuring actual behavior because past research supports the strong link between intent and behavior.

Given the strong relationship between intentions and behaviors, this study will examine the predictors of intent to litigate. There are environmental factors and person factors that may affect a person's decision to litigate. The next section discusses situational factors that may lead to litigation (procedural and distributive justice) and the influence these variables may have on a person's intent to file a claim.

Justice

Procedural and distributive justice may affect intent to litigate. Procedural justice is defined as the fairness of the policies and procedures that are used to make decisions within the

organization (Colquitt, 2004; Gilliland, 1993; Goldman, 2001; Greenberg, 2006; Rousseau et al., 2009). Employment decisions include selection, interviewing, and promotion. People may judge procedural justice in terms of equality. In other words, did the manager follow the same guidelines for determining promotions for person A and person B? Did the manager skip a step for one person and not the other? If the two people were not treated the same, this could lead one to perceive that an injustice has occurred.

Distributive justice is defined as the fairness of the outcomes (e.g., pay, promotions, and other rewards) (Colquitt, 2004; Gilliland, 1993; Goldman, 2001; Greenberg, 2006; Rousseau et al., 2009). People perceive distributive justice in terms of equity, or the match between the person's inputs and what the person receives for his/her work compared to others (Gilliland, 1993; Rousseau et al., 2009). For instance, if a person believes that his/her education level and years of experience are greater than another person's qualifications in the same organization, then he/she may think it unfair to be paid the same.

Many positive outcomes result when people perceive procedural and distributive justice. Research has found that perceptions of high levels of procedural and distributive justice lead to job satisfaction (Loi et al., 2009). Similarly, it has been found that people are more satisfied with the outcomes of an event or process when the procedures used to determine the outcomes are perceived as fair (Schroth & Shah, 2000). This same research also found that if a person perceives the process as fair, then that person is also more likely to be satisfied with the organization (Schroth & Shah, 2000).

When employees perceive injustice, the outcomes are usually negative. There are work behaviors that are affected and legal issues that result when employees perceive injustice. When there is low procedural and distributive justice in an organization, this can create an increase in stress reactions, health problems (Greenberg, 2006), and psychological distress (Rousseau, et al., 2009). If employees engage in organizational citizenship behaviors (OCBs) and start to perceive procedural injustice, they are likely to respond to the injustice by decreasing OCBs (Kamdar et al., 2006). Organizational commitment also decreases with the perception of injustice (Siegel et al., 2005). In other words, when employees do not feel as though they are being treated fairly by the organization, they are less likely to go above and beyond said job duties or be dedicated to the organization anymore.

Employees who perceive organizational injustice may choose to take action to correct the wrongs. For example, when something goes wrong, people may look for someone to blame. Looking for someone to blame leads to seeking revenge, vengeance, or retribution because when a decision is seen as unjust, people are angry and want to punish the party responsible (Skarlicki & Folger, 1997). Cremer (2006) found that when injustice is perceived, people are likely to seek revenge against the harming party. Employees and applicants may choose to seek revenge through litigation. Injustice has been shown to lead to legal claiming (Goldman, 2001; Roberts & Markel, 2001). Research has shown that procedural and distributive justice lead to satisfaction (Loi et al., 2009), and if the applicant is satisfied with the selection system and sees it as fair (Schroth & Shah, 2000), then the applicant may not be as likely to litigate. This leads to the first hypothesis.

Hypothesis 1: Participants in the high perceived justice (procedural and distributive) condition will have lower levels of intent to litigate than participants in the low perceived justice (procedural and distributive) condition.

Personality and the Intent to Litigate

A person's perceptions of justice may not be the only thing that influences the decision to litigate. Personality may also play a role. Personality is also known as overall temperament, disposition, or interpersonal characteristics (Hogan et al., 1996). Personality is generally stable and does not change dramatically over time (Hogan, et al.). For the purposes of this research, The Big-Five personality characteristics will be discussed along with positive and negative affect.

The Five-Factor Model (Big-Five) consists of five personality characteristics that help provide insight to a person's average disposition and temperament (Costa & McCrae, 1992). The five characteristics are, Openness to Experience, Conscientiousness, Extraversion, Agreeableness, and Neuroticism. The current research will focus on the three personality factors more likely to be related to litigation behavior: Extraversion, Agreeableness, and Neuroticism. In addition, Positive and Negative Affectivity will be examined because Kaplan et al.'s (2009) meta-analysis found that positive affectivity predicts organizational citizenship behaviors (OCB, behaviors that support the organization and its goals), and negative affectivity predicts counterproductive workplace behaviors (CWB, behaviors that detract from organizational and individual goals) above and beyond the Big-Five. Litigation against the organization is a CWB (Kaplan, et al., 2009). When an organization is involved in litigation, there may be damage to the organization's reputation or loss of profit as a result of the suit, which harms the organization. Due to some similarities between positive affectivity and extraversion (Watson et al., 2002) and negative affectivity and neuroticism (Fruyt & Denollet, 2002; Watson et al., 2002), both affectivity and the Big Five will be included. By including both affectivity and the Big-Five, it will be possible to analyze the similarities and the differences between the two concepts regarding litigation.

Extraversion can be characterized by sociability, which is being talkative and active, and being cheerful in disposition (Costa & McCrae, 1992). Extraverts tend to be personable, friendly, and lively (Cooperman & Ickes, 2009). They like to associate with people who are similar to themselves, and tend to be energetic and optimistic (Costa & McCrae, 1992). Extraversion has been found to be linked to perceptions of fairness in that extraverts tend to believe that everyone is on their side and that they are treated fairly (Truxillo, et al., 2002). It has also been found to be a positive predictor of job satisfaction (Grant & Langan-Fox, 2007). Similarly, extraversion also plays a role in occupational health (general well-being and physical health) in that higher extroversion is related to healthier people, which may be due to the positive appraisal that people high in extroversion make of the situation (Grant & Langan-Fox, 2007). This trait could act as a buffer to stress, thus leading to better health (Grant & Langan-Fox, 2007). Extraverts tend to value the social groups they are a part of which makes working in organizations enjoyable for them. Due to the above mentioned research, one can assume that since extraverted people tend to perceive organizational events as fair (Truxillo et al., 2002), have higher job satisfaction (Grant & Langan-

Fox, 2007), and have an optimistic view of the world (Truxillo et al., 2002), they will be less likely to take legal action against an employer.

Hypothesis 2: Extraversion will be negatively related to the intent to litigate.

Agreeable people tend to be sympathetic to others and eager to help others. They believe that others will help them in return (Costa & McCrae, 1992). Cheerful, adaptable and cooperative are other ways that agreeable people have been described (Truxillo et al., 2006). Agreeableness also has a positive correlation with social fairness (Truxillo et al., 2006), meaning that people who are high in agreeableness tend to believe that society and groups of people are fair and treat everyone fairly. Research has also found that agreeableness is positively correlated with age. This means that older people tend to be more agreeable when compared to younger people (Lucas & Donnellan, 2009). As previously stated, older people are less likely to take legal action against an organization (Allen & Keaveny, 1985) this leads one to believe that people who are high in agreeableness may be less likely to litigate. Agreeable people tend to see social interactions as fair and equal (Truxillo et al., 2006), and selection processes consist of many social interactions; therefore, agreeable people will be less likely to take legal action against an organization.

Hypothesis 3: Agreeableness will be negatively related to the intent to litigate.

People high in neuroticism tend to experience negative events more intensely than others (Costa & McCrae, 1992). They have a hard time coping with stress, anger, and guilt, and get embarrassed easily (Costa & McCrae 1992; Truxillo, et al., 2006). People high in neuroticism are also prone to have irrational ideas and they are less likely than others to be able to control their impulses (Costa & McCrae, 1992). Research has also found that neuroticism has the strongest negative relationship with job satisfaction because those who are high in neuroticism are likely to have a more negative view of the organization (Truxillo et al., 2002). Neuroticism also has a role in occupational health, because people high in neuroticism tend to experience more stress at work and in their private lives as well (Grant & Langan-Fox, 2007). Since it has been shown that neuroticism is related to job dissatisfaction (Truxillo et al., 2002) and stress (Grant & Langan-Fox, 2007), and job dissatisfaction leads to litigation (Bies & Tyler, 1993), people high in neuroticism may be more likely to take legal action against an organization.

Hypothesis 4: Neuroticism will be positively related to the intent to litigate.

Affectivity

Affectivity is a very broad term that is used to explain how someone usually behaves in certain situations or someone's disposition (Barsade & Gibson, 2007) Affectivity has two continuums (energy and pleasantness). Barsade and Gibson (2007) explain this as a Circumplex Model, originally developed by Watson and Tellegen (1985) as a two-factor structure. The level of energy classifies the high or low and the level of pleasantness determines the positive or negative

affectivity. The two are not independent dimensions, however positive affectivity is characterized by cheerful attitudes, cooperativeness, high energy and positive, upbeat moods (Barsade & Gibson, 2007; Russell & Carroll, 1999; Watson & Tellegen, 1985), and negative affectivity is characterized by competitiveness, anger, anxiety, and negative, depressed moods (Aquino et al., 1999; Barsade & Gibson, 2007; Watson & Tellegen, 1985).

Positive affectivity has been shown to be positively related to many organizational variables, such as performance, OCBs, decision-making, and income. Positive affect is positively related to task performance and OCBs (George, 1991; Kaplan, et al., 2009). People who have a more positive view of the world will perform better and are more likely to engage in extra-role behaviors. Research has also found that people with high positive affectivity receive better supervisory ratings on performance, are more effective regarding decision-making, and tend to have higher income (Barsade & Gibson, 2007). Since people with positive affectivity tend to experience life events more positively (George, 1991), they may perceive the selection process more positively; therefore, these people would be less likely to consider taking legal action against the organization.

Hypothesis 5: Positive affectivity will be negatively related to the intent to litigate.

Negative affectivity (competitiveness, anger, anxiety, depression) has also been shown to have an influence on organizational variables, such as culture, leadership, and counterproductive workplace behaviors (CWB) (Aquino et al., 1999; Barsade & Gibson, 2007; Kaplan et al., 2009). Negative affectivity can poison an organization's culture (Barsade & Gibson, 2007). Employees who have high negative affectivity may have a negative effect on other employees in the organization and may eventually alter the culture for the worse. It can have a negative effect on leadership and may lead to aggression (Barsade & Gibson, 2007). Negative affectivity also leads to employee deviance or behavior that violates the norms of the organization (Aquino et al., 1999). It has also been argued that negative affectivity leads to CWBs (Kaplan et al., 2009). Litigation may be considered a CWB (Kaplan et al., 2009) because the employee is acting out against the company and the company is suffering consequences due to the behaviors of the employee. Due to this, it is understandable to think that people with more negative affectivity would be likely to take legal action against the organization.

Hypothesis 6: Negative affectivity will be positively related to the intent to litigate.

Method

Participants

The participants in this study were undergraduates from Southern Illinois University Edwardsville who were enrolled in an introductory psychology course. They received course credit for their participation. The sample ($N = 172$) consisted of 125 (73%) females and 46 (27%) males. Participants represented a variety of racial groups, African American ($n = 24$, 14%), Asian American ($n = 1$; less than 1%), Hispanic American ($n = 4$; less than 1%), White ($n = 133$; 77%), and the remaining participants ($n = 8$; less than 1%) classified themselves as "other." Participants

ranged in age from 18-39 years ($M = 19.86$, $SD = 3.16$) and previous work experience ranged from 0 to 23 years ($M = 3.72$, $SD = 3.24$).

Design and Procedure

In the study, all materials were distributed through Survey Monkey, an on-line survey tool. Participants were provided with an informed consent page. Each participant read one scenario, which was distributed at random. The participants then answered the intent to litigate questions. A manipulation check was used to ensure that the participants accurately perceived the manipulated justice scenarios. A stress measure was also included in order to distract participants from guessing the purpose of the research. Then two personality surveys were administered. After that, a demographics questionnaire was administered before the participants were debriefed and thanked for their participation.

Measures

Intent to litigate. To measure the dependent variable (intent to litigate), five questions were developed and designed to measure intentions to perform behaviors associated with litigation. The questions were measured on a 1-5 Likert Scale, 1 = *Strongly Disagree*, and 5 = *Strongly Agree*. Sample items include, "If I were the person in the scenario I would talk to a lawyer about the situation;" and "If I were the person in the scenario, I would file a lawsuit against Company Y." The scale had a high level of internal consistency ($\alpha = .95$).

Manipulation Check. A manipulation check was used to ensure that the participants appropriately perceived high and low justice in the scenarios. A selection of the procedural and distributive justice items from the Selection Procedural Justice Scale (SPJS) was adapted for use as a manipulation check (Bauer et al., 2001). A reliability analysis was computed for the manipulation check and it was shown that the selected questions from the SPJS used for the manipulation check were reliable ($\alpha = .97$).

Student Stress Survey. The Student Stress Inventory was used to distract participants from guessing the purpose of the current research. The data obtained from this survey were not analyzed as part of the study. There were 29 items and took approximately five minutes to complete.

Personality Inventory – The Big 5. There were 10 items for each subscale, 30 items total, and 15 items are reverse scored (five in each subscale). Items were rated on a 1-5 Likert Scale, 1 = *Strongly Disagree* and 5 = *Strongly Agree*. Negatively worded items were reverse scored, and all items were summed to get a total for each subscale. The subscales were measured on a continuum, so there was no cut off score that determines if a person is high or low in agreeableness, for example. Sample items include, "I believe that others have good intentions" (high agreeableness), "I don't like to draw attention to myself" (extroversion, reverse scored), and "I am not easily bothered by things" (neuroticism, reverse scored). The survey used in this research was compiled using the International Personality Item Pool (IPIP) measuring three variables, agreeableness ($\alpha = .77$), extroversion ($\alpha = .86$), and neuroticism ($\alpha = .86$). These subscales correlated with the NEO-PI-R measures of the same variables (Goldberg, 1999), agreeableness ($r = .70$), extroversion ($r =$

.77), neuroticism ($r = .82$). This research showed that the reliability of these personality scales are similar to, but slightly lower than the internal consistency estimate of the NEO-PI-R, agreeableness ($\alpha = .75$), extroversion ($\alpha = .87$), and neuroticism ($\alpha = .83$).

PANAS. The second personality measure was the Positive and Negative Affect Scale (PANAS) developed by Watson et al. (1988). There were 20 items total, 10 on each subscale. It was also measured on a 1-5 Likert Scale, 1 = *Very slightly or not at all* and 5 = *Extremely*. Each scale consisted of a list of words and the participant indicated the extent that he/she generally feels that way. For example, “excited” (positive item) and “upset” (negative item) are words that are included in the PANAS. The positive scale and the negative scale within PANAS are internally consistent and reliable ($\alpha = .88$, $\alpha = .87$, respectively). This research showed similar reliability estimates for positive ($\alpha = .87$) and negative affectivity ($\alpha = .85$).

Demographic Information. Lastly, a demographic questionnaire was used to collect information about the participants in the study. The questions asked about the participant’s previous work experience, gender, race, and age. Once all of the measures are completed by the participants they were debriefed and thanked for their time.

Stimulus Materials

Two scenarios were developed to manipulate justice (procedural and distributive). A between subjects pilot study was done to determine if the justice scenarios were perceived as intended. Minor changes were made based on participant feedback. Undergraduate students were used for the pilot study to ensure that responses were similar to the experimental sample.

The scenarios were developed to reflect a selection/hiring situation. The scenarios were the same in regard to the job and situation except for the way the decision was made or the manner in which the job/promotion was awarded. Participants were told that they are salespeople who have worked for the company for five years and have recently learned about a management position that will be opening up in another company. They were told their performance was good at their current job; however, experience and education may be lacking. Within the scenarios, there were many aspects of justice (procedural and distributive) built in and manipulated. One scenario was constructed to have high procedural and distributive justice. Another scenario was constructed to have low procedural and distributive justice. The scenarios are included in Appendix A. In order to determine important justice factors, items from the Selection Procedural Justice Scale (SPJS) (Bauer et al., 2001) were used to develop the manipulations. Factors from the SPJS include: the time given to the applicant to prepare for the interview; information regarding tests to be used; and how the tests will be scored. Also included were aspects of fairness across participants; how the applicant was treated at the test site; how the applicant was told of the outcome; and how feedback was given regarding the applicants’ performance.

Results

Preliminary Analyses

An inter-correlation matrix was computed to assess if any variables should be controlled in further analyses. An independent samples *t*-test was computed to see if there were differences

between African Americans and Caucasians and their intent to litigate. Since the other ethnic groups were too small, these groups were not included in the analyses. Results were significant, showing that African Americans ($M = 3.13$, $SD = 1.04$) were more likely to litigate than Caucasians ($M = 2.25$, $SD = 1.04$), $t(152) = 3.67$, $p < .01$. Thus, subsequent analyses were conducted controlling for race.

An independent samples t -test was computed to see if there were differences between males and females and their intent to litigate. Results were not significant, showing that there was not a significant difference on intent to litigate between males ($M = 2.31$, $SD = 1.11$) and females ($M = 2.48$, $SD = 1.11$), $t(166) = -0.88$, ns.

An independent samples t -test was computed for the manipulation check in order to see differences in perceived fairness between participants in the high and low justice conditions. Results were significant, showing that those in the high justice condition ($M = 4.08$, $SD = 0.61$) perceived more fairness than those in the low justice condition ($M = 1.72$, $SD = 0.58$), $t(165) = -25.57$, $p < .01$. Thus, the justice manipulation was successful.

Hypothesis Testing

In order to test hypothesis one, an independent samples t -test was computed in order to see differences on the intent to litigate between participants in the high and low procedural/distributive justice conditions. The results indicate that participants in the high perceived justice condition ($M = 1.76$, $SD = 0.89$) had lower levels of intent to litigate than participants in the low perceived justice condition ($M = 3.01$, $SD = 0.95$), $t(167) = -8.76$, $p < .01$. Hypothesis one was supported.

In order to test the remaining hypotheses, correlation analyses were done to assess whether personality traits (extroversion, agreeableness, neuroticism, positive affectivity, and negative affectivity) were related to the intent to litigate. Results indicated that hypothesis two was not significant in that extroversion was not positively related to the intent to litigate ($r(164) = .05$, ns). Hypothesis three was not supported either, agreeableness was not positively related to the intent to litigate ($r(160) = .03$, ns). Neuroticism was not negatively related to the intent to litigate ($r(161) = -.03$, ns) indicating that hypothesis four was not supported. Results for Hypothesis five approached significance ($r(162) = -.15$, $p = .06$), indicating that positive affectivity may be positively related to the intent to litigate with a larger sample size providing more statistical power. Last, hypothesis six was not supported, negative affectivity was not positively related to the intent to litigate ($r(163) = -.07$, ns).

Since race was significantly correlated with intent to litigate, the individual differences hypotheses were re-run with partial correlations controlling for race. Only positive affectivity was significant ($r(148) = -.20$, $p < .05$), showing that positive affectivity correlates with intent to litigate when race is controlled.

Exploratory Analyses

A sequential/hierarchical multiple regression analyses was computed to further explore relationships between positive affectivity, justice, and the intent to litigate. Results of this analysis

are reported in Table 1. Race (African American & Caucasian) was controlled for in step one, then positive affectivity and justice variables were entered. The second model accounted for significantly more variance in intent to litigate than the first model, R^2 change = .24, $F(2, 159) = 26.79$, $p < .01$. In the first step, race was a significant predictor, $B = -.26$, $\beta = -.25$, $t = 3.23$, $p < .01$. In the second step, race was a significant predictor, $B = 1.09$, $\beta = -.18$, $t = 2.67$, $p < .05$, justice condition was a significant predictor, $B = 1.03$, $\beta = .47$, $t = 6.85$, $p < .01$ and positive affectivity was not a significant predictor, $B = .01$, $\beta = .08$, $t = 1.11$, ns. No interactions (between justice condition and the personality variables) were tested because prior research provided no reason to hypothesize such interactions. These results suggest that justice condition accounts for variance in the intent to litigate above and beyond variance accounted for by race.

Table 1: Multiple regression analysis predicting intent to litigate from race, justice, and positive affectivity

Variable	<i>B</i>	<i>SE</i>	β	<i>t</i>	95% CI for <i>B</i>	
Step 1						
Constant	3.41	.31		10.92**	2.80,	4.03
Race	−0.26	.08	−.25	3.23**	−0.43,	−0.10
Step 2						
Constant	1.09	.54		2.02	0.03,	2.15
Race	−0.19	.07	−.18	2.67*	−0.34,	−0.05
Justice	1.03	.15	−.47	6.85**	0.73,	1.33
Positive Affectivity	0.01	.01	.08	1.11	−0.01,	0.04

Note. $R^2 = .06$ for Step 1; $\Delta R^2 = .24$ for Step 2 ($p < .01$). * $p < .05$ (two-tailed).

** $p < .01$ (two-tailed).

Discussion

Summary of Research

The goal of this research was to investigate some of the situational and dispositional factors that may lead an employee or applicant to litigate. Previous research has shown that perceptions of injustice have led to legal claiming (Goldman, 2001; Roberts & Markel, 2001); therefore, it was hypothesized that participants in the high justice condition would have lower levels of the intent to litigate than those in the low justice condition. Three of the Big 5 personality factors were investigated; specifically extroversion, agreeableness, and neuroticism. It was hypothesized that extroversion and agreeableness would be related to a lower intent to litigate, and neuroticism would be related to a higher intent to litigate. Positive and negative affectivity were included because they have been shown to be similar to extroversion and neuroticism, respectively (Fruyt & Denollet, 2002; Watson et al., 2002) but provide incremental prediction of counter-productive workplace behaviors (CWBs) (Kaplan et al., 2009). The Theory of Planned Behavior supports the intent to behavior linkage (Doll & Ajzen, 1992), which is one reason why only intent to litigate was measured here instead of actual behavior. To measure the variables, participants read scenarios that were either high or low in procedural and distributive justice and then answered questions

about their intent to litigate. Measures of Big 5 personality factors and affectivity were also included in order to tap into dispositional factors that may play a role in the decision to litigate.

Summary of Results

As predicted by hypothesis one, participants in the high justice conditions had lower levels of intent to litigate than those participants in the low justice condition. This indicates that when applicants feel as though they are being treated fairly in a hiring situation, they are less likely to say they would take legal action against the organization for mistreatment even if they are not selected. Conversely, participants in the low justice condition are more likely to say they would take legal action against the organization. This result is consistent with previous research in that perceptions of injustice have been shown to lead to legal claiming (Goldman, 2001; Roberts & Markel, 2001). This finding can be helpful to HR professionals. Ensuring that the selection process is fair from beginning to end for all applicants is vital. This research shows that if applicants do not feel they are treated like everyone else, they are more likely to say they would litigate. It is good practice for the organization to have a written standard of what is said and done at each step to ensure standardization of the selection process. Factors that promote justice are: having open communication with the applicant regarding the status of his/her application, being honest with the applicant; being consistent with the administration of selection procedures; providing the applicant with information about the selection battery; using job-related tests in the selection battery; giving the applicant a chance to perform, and providing feedback to the applicant with ways to develop his/her skills (Gilliland, 1993).

Extroversion was hypothesized to have a negative relationship with intent to litigate. Results were not significant, meaning that participants who are high in extroversion did not indicate the intent to litigate. This finding is inconsistent with previous research which has shown that extraverted people tend to perceive organizational events as fair (Truxillo et al., 2006); therefore one could assume that they would be less likely to take legal action against an employer. This research was unable to gain support for this hypothesis, however. This could be because a written scenario was used to simulate a selection procedure, whereas in a real situation in an organization, extroversion may play a larger role because that person is interacting with representatives from the organization and other applicants during the process so there would be more opportunities for the person's personality to influence his/her behaviors. The results may be different in that extroversion would emerge as a predictor of the intent to litigate.

Agreeableness was hypothesized to have a negative relationship with intent to litigate as well, and like extroversion, was not significant. Previous research has shown that agreeable people tend to see social interactions as fair and equal (Truxillo et al., 2006), and with selection processes largely consisting of social interactions, agreeable people would be less likely to take legal action against an organization. However, this research was not able to find a significant relationship between these two variables. As with extroversion, agreeableness may emerge as a significant predictor in a real selection situation rather than a scenario. Social interactions in the scenario may not be as prevalent as they would be in a real selection situation, so agreeableness may influence behaviors more in a real situation rather than a scenario.

Neuroticism was hypothesized to have a positive relationship with intent to litigate, and results were not significant. Since it has been shown in previous research that neuroticism is related to job dissatisfaction (Truxillo et al., 2006) and job dissatisfaction leads to litigation (Bies & Tyler, 1993), people high in neuroticism would be expected to be more likely to take legal action against an organization because of dissatisfaction with the selection process. This research found results inconsistent with previous research. Neuroticism may play a larger role in the employment relationship than in a selection process because previous research has shown a relationship between job dissatisfaction and neuroticism (Truxillo et al., 2006). In a selection system, the applicant has not worked for the organization yet, therefore has not had the opportunity to develop feelings of job satisfaction/dissatisfaction yet.

Of the personality variables included in the study, extroversion, agreeableness, and neuroticism were not shown to be related to the intent to litigate. According to this research, organizations may not have to take these personality factors into account when assessing litigation intent. However, caution should be used when interpreting non-significant results.

This study hypothesized that positive affectivity would have a negative relationship with intent to litigate. Results for positive affectivity approached significance. Since people with positive affectivity tend to experience life events more positively (George, 1991), one would expect that these people would be less likely to consider taking legal action against the organization because they spin situations in a positive direction, even negative situations.

Negative affectivity did not produce significant results. It was hypothesized that negative affectivity would have a positive relationship with intent to litigate. Previous research has found that negative affectivity is associated with behaviors that violate the norms of the organization (Aquino et al., 1999; Barsade & Gibson, 2007; Kaplan et al., 2009), and since litigation violates the norms of the organization, it can be considered a CWB. Applicants may be aware of the norms of an organization to which they are applying through discussions with friends who work for the organization or through public knowledge. Unfortunately, this research found results inconsistent to that of previous studies (Aquino et al., 1999; Barsade & Gibson, 2007; Kaplan et al., 2009). Perhaps this relationship would emerge in an employment relationship rather than in a selection situation.

The exploratory analyses produced interesting results. Race (African American vs. Caucasian), justice, and positive affectivity were entered into a regression analysis, and results indicated that race accounted for a significant percentage of the variance in the intent to litigate. African Americans were more likely to litigate than Caucasians. This could be due to the fact that African Americans have been discriminated against in the past so they may feel as though the injustice is only happening to them (Gomez & Trierweiler, 1999). African Americans may expect to be treated unfairly, and according to previous research, expecting to be treated unfairly leads one to perceive the selection process as unfair (Celani et al., 2008). Since race is a protected group, African Americans may be more sensitized to injustice whereas Caucasians may not be as aware of injustice (Gomez & Trierweiler, 1999). If African Americans perceive they are being treated differently because of race and not another reason, then litigation behavior may be based on perceptions of discrimination. According to the Equal Employment Opportunity Commission, in

2009, of the total 93,277 charges filed, 33,579 are based on racial discrimination (2009). It is not known how many are due to the selection process or the employment relationship, nonetheless, it is especially important for African Americans to see the process as fair since there is a group history of discrimination and such a large proportion of the lawsuits filed due to racial discrimination.

With the inclusion of justice and positive affectivity, the predictors account for a large amount of variance in litigation intent. Justice and positive affectivity account for more variance above and beyond race. The intent to litigate could be related to race and not fairness. This research indicates that not only justice and positive affectivity lead to intent to litigate, but race is also part of the story.

Limitations

As with all research, this study has its limitations. First, due to the sensitivity of the research, asking about litigation may not have been well received in many organizations, which is why a college sample was used for the study. This limits the generalizability and external validity of this research. Even though the sample indicated having several years of previous work experience ($M = 3.72$, $SD = 3.24$), sampling employees or older adults may be beneficial for a few reasons. Older adults would have had more exposure to how organizations are run and may be able to more accurately judge what is fair/unfair. Also, older adults may have other reasons for not taking legal action against an organization, like time away from work, money constraints, children, etc. College students weren't especially likely to say they would litigate.

A second limitation of this research is that intent to litigate was measured instead of litigation behavior. Even though there is research support for the intent to behavior linkage (Doll & Ajzen, 1992), it would be ideal to measure actual litigation behavior. Conducting this type of study would be time consuming because the researcher would have to wait for litigation to happen, which is fairly rare in any one organization. Archival data may be available for compilation to see the reason why many employees or applicants take legal action; however, this type of study would not allow for manipulation of variables. It may be possible to investigate real litigation behavior by having independent raters judging procedural and distributive justice factors of selection procedures in an organization and comparing to litigation behavior resulting from the selection procedure. This may be difficult because after litigation the organization is likely to change the system, so research would have to include prior selection systems along with the current system.

A final limitation of this study relates to the use of scenarios in psychological research. People may have different reactions from reading a scenario than they would in real life, if the situation were happening to them (Wood & Karau, 2008). Scenarios may limit generalizability because they can only simulate the complexity of real-world situations (Wood & Karau, 2008).

Future Research Directions

This study adds to the limited research regarding litigation in organizations. Justice, personality and affectivity were investigated here; however, other predictors may play a role in the intent to litigate. Since race was found to account for part of the variance, other demographics

should be researched with relation to litigation behavior. Education may play a role, people with college educations may sue more frequently than those without a college education (Owen et al., 1989). This could be due to the type of job or industry involved. People with college education usually hold white collar jobs while people without college educations usually hold blue collar jobs. Research has found that blue collar workers are less likely to file lawsuits than white collar workers (Owen et al., 1989). Another interesting area for research would be to investigate whether private or public sector employees are more likely to litigate. Union status may play a role (Owen et al., 1989), in that public employees tend to be more unionized than private employees. Owen et al. (1989) sites more frequent litigation in the private sector, however, it would be interesting to determine why that is since the public sector tends to be more unionized. It would be interesting to investigate less extreme processes, such as filing a complaint, filing a grievance, etc. that lead to litigation and determine if personality or affectivity plays a role. Perhaps personality and affectivity did not yield significant results because litigation is an extreme reaction to a situation. These factors may play more of a role in less extreme processes because the person can still rectify the situation without taking such a severe step into litigation.

Another area that should be examined is that of the outcomes of litigation. Based on the outcome of the lawsuit, how does that make the employee feel? The employee files the lawsuit because he/she felt mistreated. The question is; does litigation solve the problem, does it give the person vindication? Is filing a lawsuit worth it? There are trade-offs when filing, such as stress, time, energy, hurt feelings, and those things may not be worth the end result. The result may be that the employee is given his/her job back, given the promotion, or awarded monetary damages depending on the type of lawsuit; however, this may still leave the employee feeling mistreated. It would be interesting to determine if the wrong that was committed by the organization can ever be set right or if the employee will be forever jaded against that organization. Litigation does help keep organizations in line and helps prevent discrimination; however, does litigation have any benefit to the employee or applicant besides monetary gain? Future research should investigate this issue.

Conclusion

Litigation is a problem for organizations and should not be taken lightly. Applicants and employees may file suit if they feel mistreated. This research shows that several things lead to litigation, such as justice, positive affectivity, and race. This information is helpful to organizations in that it can be useful in determining if litigation is to be expected. If people are treated fairly in all aspects of the employment relationship, then litigation is less likely.

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